

## § 1421.301

## 7 CFR Ch. XIV (1-1-04 Edition)

### § 1421.301 Administration.

(a) This subpart shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Executive Vice President, CCC or designee. The program shall be carried out in the field by State and county FSA employees under the general direction and supervision of the State and county FSA committees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs (DAFP), FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program. In addition, DAFP may establish other conditions for payments that will assist in achieving the goals of the program and may include such provisions in the program agreement or other program documents.

### § 1421.302 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration under this subpart:

*COC* means the FSA county office committee.

*CCC* means the Commodity Credit Corporation.

*Department* means the United States Department of Agriculture.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) or a designee of that person.

*FSA* means the Farm Service Agency of the Department.

*Secretary* means the Secretary of the United States Department of Agriculture, or the Secretary's delegate.

*STC* means the FSA State committee.

### § 1421.303 Eligible producer and eligible land.

(a) To be an eligible producer for a payment under this subpart, the person must be a producer of wheat, barley, oats, or triticale in the 2002 through 2007 crop years. Also, to be an eligible producer, the person must meet all other qualifications for payment that are set out in this subpart, set out in parts 12, 718, 1400, and 1405 of this title. A person will not be considered the producer of the crop unless that person was responsible for the planting of the crop and had the risk of loss in the crop at all times, including, at the time of planting and the time of the request for a payment under, this subpart.

(b) A minor may participate in the program if the right of majority has been conferred on the minor by court order or by statute, or if the minor participates through a guardian authorized to act on the minor's behalf in these matters. Alternatively, a minor may participate if the program documents are all signed by an acceptable (to CCC) guarantor or if bond, acceptable to CCC, is provided by a surety.

(c) For the crop to be eligible, the crop, in addition to other standards that may apply, must be grown on land that is classified as "cropland" in FSA farm records or on land that FSA determines has been cropped in the last 3 years except that the land may also qualify if the land is committed to a crop rotation, normal for the locality, that includes harvesting the subject crop for grain. These rules are designed

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to assure, to the extent practicable, the available payment did not produce plantings that otherwise would not have occurred and the CCC may deny payments in any instance in which there is reason to believe that the planting was done for that purpose. To that end, if the commodity involved has not been previously grown by the producer or is not one which is not predominately produced locally, the producer must submit evidence of seed purchases for planting the commodities and other evidence deemed needed or appropriate by the COC in order to assure that the program goals are made and that the land was not planted to an eligible commodity simply to obtain a payment. Also, the land to be eligible must, for the year involved, be grazed and cannot, during the crop year, be harvested at any time for any purpose, except as determined by the Deputy Administrator to accommodate producers with a history of double-cropping when the crop to be harvested is not the crop for which a payment is to be made under this subpart. Land will be considered grazed only to the extent that the crop on the land is consumed in the field as live plants by livestock for the normal period of time for grazing in the area.

(d)(1) A producer must, at the time of the agreement made under this part to obtain a payment, meet all other eligible criteria for obtaining loan deficiency payments.

(2) For producers of triticale who obtain a payment under this subpart the producer must enter into an agreement with CCC to forgo any harvesting of triticale on the acreage for which such a payment is made.

(e)(1) No payment will be made if the crop could not have been harvested because of weather conditions or any other reason.

(2) The producer must retain the control, title and risk of loss in the commodity for which the payment is sought from the date of planting through the date on which mechanical harvesting of the crop would normally occur.

(f) Producers who elect to graze 2002-2007 crop wheat, barley, oats, or triticale will not be eligible for an indemnity under the Federal Crop Insur-

ance Program provision of Chapter IV of this title or a payment under Non-insured Crop Assistance Program authorized under part 1437 of this chapter.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63523, Oct. 11, 2002]

### § 1421.304 Time and method for application.

Application for the program provided in this subpart must be received, at the county office that is responsible for administering programs for the farm, no earlier than the date on which eligible crops would normally be harvested and no later than the final loan availability date as determined in accordance with § 1421.5. The application must describe the land to be grazed and, in accordance with standards set by CCC, the tract/field location. The COC will determine the first harvest date which shall take into account the date on which such crops are, locally, normally harvested for any purpose. Where multiple producers are involved, the form must reflect each producer's share in the crop. No producer must receive payments under this subpart except to the extent that the payments are commensurate with that share. Should a person who is entitled to receive a payment under this subpart die, that payment, as earned, may be made to other persons as provided for in the rules set out in part 707. Third parties may also receive payments to the extent provided for in that part for other situations involving an incapacitation of the producer. Refusals to allow CCC to verify information on any form or report utilized for this subpart can result in program ineligibility and producers must provide CCC and its agent to the property involved and to all records as may be relevant to the making of payments under this subpart. Further, false statements will disqualify the producer from the program and may be subject to other sanctions including criminal sanctions.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63524, Oct. 11, 2002]

### § 1421.305 Payment amount.

(a) The grazing payment rate shall be the loan deficiency payment in effect